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71, pp.28, 52-53; EXH 84, pp.15, 24) AT&T witness Pfau argues that the LCUG metrics are along the lines of the guidelines that the FCC has provided in the Ameritech Order. (EXH 71, p.33)

AT&T witness Pfau contends that by presenting the LCUG, AT&T is in effect providing a reasonable alternative monitoring system to BellSouth's proposed monitoring system that AT&T (as well as other ALECs) believes is adequate for Section 271 compliance. Witness Pfau argues that the LCUG metrics propose direct comparison and not the standard use of benchmarks. Witness Pfau contends that the LCUG is actually a third resort because

what we are asking them to adopt is a measurement system that allows us to make direct comparisons and only revert to those LCUG standards when ... there is no analog or comparable internal function to compare to BellSouth and then ... only after BellSouth has not produced any special studies that would produce a different result than what LCUG proposes. (EXH 71, pp.72, 83)

WorldCom witness McCausland argues that in presenting the LCUG metrics to BellSouth, the intent was that BellSouth could use the LCUG as the basis for future measurements. (EXH 117, p.23) These intervenors argue that BellSouth is not disadvantaged, since its proffered performance standards and measurements have been deemed as only a starting point. (TR 2160; EXH 84, p.26)

FCCA witness Kinkoph asserts that the LCUG metrics cannot be construed as providing parity, but simply as the best of class performance benchmarks that the states could use to establish required intervals based on the individual ILEC's operational performance. However, in the absence of an ILEC's operational data, witness Kinkoph contends that the LCUG metrics should become the default performance benchmarks. (EXH 84, p.25) Sprint witness Closz contends that the LCUG still needs work, since some of the measures are not fully known by either BellSouth or the intervenors. She further contends that some of these measures are surrogates and not fully described because of limited information to warrant good understanding of what such parity standards should be. (EXH 89, p.62)

BellSouth witness Stacy disagrees with the use of the proposed LCUG metrics. He contends that BellSouth has a negotiated agreement with AT&T's that contains a set of measures that meet both of their business needs. (EXH 52, p.41) Witness Stacy argues that the LCUG has measurements that are arbitrary, and sets expectations that are not based on any concept of parity

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or BellSouth's best business interests. (EXH 52, p.42) In addition, witness Stacy argues that the quantity of measures that the LCUG metrics require are far more than what BellSouth uses to manage its operation; thus, it is unreasonable. (EXH 52, pp.41-42)

Staff notes BellSouth's argument that performance standards and measurements are not listed as a checklist item because performance standards and measurement are not spelled out like other checklist items. However, staff believes that performance standards and measurements can be construed as a checklist item, since performance standards and measurements are derivative issues per the nondiscriminatory requirement of checklist items ii and xiv, pursuant to sections 271(c)(2)(b)(ii) and (xiv). Thus, staff agrees with AT&T that the statutory mandate for nondiscriminatory provisioning of resale services and UNEs elevates this requirement to a checklist item status in the light of section 271 proceedings. (TR 2196)

Staff agrees with both BellSouth and AT&T that BellSouth has basically furnished its negotiated performance standards and measurements with AT&T (Attachment 12) pursuant to their interconnection agreement as its performance standards and measurements. Staff notes that both AT&T and BellSouth indicate that the negotiated measurements are not adequate since they are negotiated and not necessarily based on BellSouth's historical data and that these measurements are just a starting point, thereby, providing for further refinements. (Pfau TR 2205-2206; EXH 52, p.41) Staff agrees with AT&T's argument that these measurements are simply what BellSouth is obligated to deliver in the absence of actual comparative data. Staff believes that these standards and measurements are inadequate in detecting discrimination since they were designed simply to monitor contract compliance and to allow AT&T market entry.

Staff also agrees with the intervenors that BellSouth's filed performance standards and measurements contain performance target intervals which BellSouth intends to utilize in measuring and monitoring nondiscrimination and parity. Staff further agrees with AT&T that the proposed target intervals cannot tell how long it will take BellSouth to provide a service, nor do these measures demonstrate that the specific target intervals have any relevance to BellSouth's operational data.

Staff believes that an effective monitoring system must allow for a simple but meaningful comparison of any two set of performance data. Staff believes that performance target intervals are not adequate and cannot provide such direct

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comparison, since target intervals measure the frequency of error in meeting the established target interval. Thus, staff agrees with AT&T that target-based measurements have a greater potential of masking discrimination. Staff also agrees with AT&T that the AT&T/BellSouth negotiated standards and measurements are only a representative sample of required measurements necessary to monitor the quality of support BellSouth provides to competing carriers. As indicated by both AT&T and BellSouth, Attachment 12 is subject to revisions and updates.

Staff notes BellSouth's assertion of basing its target intervals on its historical retail analogues, and staff agrees with AT&T that such retail information provides for reasonable minimum levels of performance measures. However, staff observes that BellSouth has not provided any such data as support of its target-based measures for such services that BellSouth has retail analogues. Staff believes that absent such operational data, staff cannot factually determine the efficacy of these target-based measures. There is no way to determine if these target-based measures reasonably approximate the performance BellSouth delivers to its retail operation in analogous situations. Staff notes that in the alternative, AT&T's proposes to use the benchmarks in the LCUG, since these benchmarks are based on the IXCs' experience in the interLATA market combined with the IXCs' reasonable expectations. (EXH 71, pp.53, 68) Staff observes that neither AT&T nor any other intervenor has provided data to support their position that the LCUG's benchmarks reflect their operational experience in the interLATA market.

Staff does not believe that BellSouth's Statistical Process Control is adequate to demonstrate nondiscrimination and parity, since the SPC is generally utilized in stable, controlled, single system manufacturing environments. (TR 2235) Staff believes that the SPC has had limited application, if any, in the service sector. Staff agrees with AT&T that the SPC is not adequate to compare two sets of performance data for nondiscrimination. Staff believes that BellSouth is potentially misapplying the SPC by attempting to use it to monitor multi-system processes in the service environment as witness Pfau argues. Staff agrees with AT&T that the processes utilized to inject competition in the local exchange market are rather new processes, and therefore, lack the level of maturity that would warrant classifying these processes as stable.

Staff disagrees with BellSouth's use of three sigmas to set the control limits for its proposed control chart, since the three sigmas imply 99.7% probability of any variability being in error. Staff believes that three sigmas are not sufficiently

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restrictive to detect discrimination, especially if this is utilized in conjunction with target-based measurements. Staff notes that BellSouth's witness Stacy conceded that the control limits in the SPC could be set at any desired sigmas. (TR 1688) Staff notes AT&T assertion that a 95% confidence interval is a generally preferred benchmark in statistical testing; however, AT&T did not propose a particular statistical test in the alternative. Alternatively, staff notes that AT&T suggests the use of a mean performance and performance variability testing using a 95% confidence interval as an effective method for comparing operational performance between BellSouth and the competing carriers. Staff observes that BellSouth did not endorse nor refute these ideas. Staff, however, believes that the mean performance testing and the performance variability testing provide for direct comparison better than any target-based measures.

Staff agrees with the intervenors that the LCUG metrics are just a representative sample of a critical few measures that can serve as the back-bone of an effective measuring plan for nondiscrimination. Staff notes the intervenors' assertion that these metrics provide minimum levels of acceptable performance that will provide the ALECs a reasonable opportunity to compete. Staff further notes the intervenors' forthrightness regarding the fact that the LCUG's benchmarks are not based on actual ILEC's operational performance data, but instead, on the "best of class" as per their experience as IXC's and obtained in various interconnection agreements by the LCUG. Staff, however, can neither support nor disprove that the LCUG metrics are designed along the FCC guidelines as proffered in the Ameritech Order. (EXH 71, p.33) Staff notes that the versions of the LCUG provided in this proceeding were released before the Ameritech Order.

Staff contends that while the LCUG has great potential, it is nonetheless, a one-sided effort, since its sponsors are solely competing carriers. Thus, to characterize the LCUG as a reasonable alternative as a default performance benchmarks or even as a basis for BellSouth's future measures is speculative. By the same token, if local competition flourishes as intended by Congress, the LCUG metrics could serve as an initial step toward nondiscriminatory access. According to the FCC, nondiscrimination is fundamental and must be the core of the ILECs' operations as the ILEC provisions the required OSS access, UNEs, or resale services to the ALECs. (EXH 71, p.52)

Staff disagrees with BellSouth's rejection of the LCUG simply on the basis that it has a negotiated agreement with AT&T. (EXH 52, p.41) Staff notes that BellSouth's proposed performance

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standards and measurement are contained in a negotiated agreement between two parties (AT&T and BellSouth), and both parties have concurred that it still needs refinement. Staff disagrees with BellSouth's assertion that the LCUG metrics are arbitrary and lack the concept of parity. Staff contends that the LCUG metrics could be construed to have a basis regardless of the validity of the sources. (EXH 52, p.42) While there may be no corroborative data to validate the accuracy of these metrics, staff would note that the same argument applies to BellSouth, despite the fact that BellSouth is the custodian of such historical data. Staff believes that it is incumbent on BellSouth to provide the needed information to disprove the LCUG metrics. It is not sufficient for BellSouth, the custodian of these data, to just assert that these benchmarks are unreasonable. BellSouth should have to provide the required data necessary to establish representative and fair benchmarks. Staff also disagrees with BellSouth's assertion that the number of the LCUG benchmarks are more than BellSouth uses to manage its own operations. (EXH 52, p.42) Staff believes that it is necessary to measure all the functions that are required to demonstrate nondiscrimination, thereby giving the ALECs a fair opportunity to compete in the local market. Thus, staff characterizes this assertion as conjecture.

In order to provide guidance regarding nondiscrimination in the provisioning of UNEs, resale services, and access to BellSouth's OSS functions, a measuring tool is imperative. BellSouth argues that this measuring tool should be the negotiated Attachment 12 to AT&T/BellSouth's Interconnection Agreement. Staff notes that there appears to be significant service provisioning interval variations between BellSouth's copy provided in this proceeding (EXH 51) and the Attachment 12 which was filed with the AT&T/BellSouth agreement. At the very least, Attachment 12 is fashioned, for the most part, to meet AT&T's needs as is necessary for market entry. It is not realistic to contemplate that other ALECs' performance needs will be sufficiently covered within this bilateral agreement. (Kouroupas TR 3483; EXH 123, pp.13, 16) As a result, Attachment 12 is not a comprehensive and complete set of measurements that are adequate for the purpose of meeting the nondiscriminatory requirement of Section 271. (Pfau TR 2176)

Staff contends that it is incumbent on BellSouth to provide the required historical data to facilitate the establishment of interim benchmarks. Absent such historical data, the Commission, the ALECs and BellSouth are disadvantaged because there is no factual basis upon which to base these benchmarks. While the LCUG metrics may not be the long term solution, staff would argue that it is the best alternative since BellSouth's proffered

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document (EXH 51) appears to materially differ with Attachment 12.

SUMMARY

BellSouth has proposed the use of its negotiated measures with AT&T (Attachment 12) as its performance standards and measurements in this proceeding. In addition, BellSouth has proposed to use the statistical control process as a reporting format for ALECs' performance. AT&T and the intervenors argue that Attachment 12 is inadequate. AT&T and the intervenors have proffered the LCUG metrics as an alternative. The intervenors argue that the LCUG metrics are adequate in detecting discrimination and better structured compared to BellSouth's proposed SPC.

The FCC determined in the Ameritech Order that data on average installation intervals regarding the BOC's retail operations is critical in determining nondiscrimination. BellSouth has not provided such operational data in this proceeding; thus, BellSouth has not met this requirement.

RECOMMENDATION

BellSouth has developed performance standards and measurements. These performance standards and measurements are in the form of performance target intervals. However, the performance target intervals that BellSouth has established are not adequate to monitor post-entry nondiscriminatory performance for UNEs and OSS functions. Thus, staff recommends that BellSouth has not developed performance standards and measurements that are adequate to monitor nondiscriminatory provision of UNEs, resale services and access to OSS functions.

GUIDELINES

Staff believes that BellSouth should use the LCUG to pattern its performance standards and measurements in the interim. Staff believes that the LCUG is far from being comprehensive; however, the LCUG appears to be adequate in measuring and monitoring nondiscrimination in the interim. For future Section 271 applications, staff believes that BellSouth use mean provisioning intervals to determine nondiscriminatory performance. BellSouth should present comparable performance for both itself and the ALECs using at least six months of statistically valid commercial usage data, showing:

- (1) average installation intervals for resale;
- (2) average installation intervals for loops;

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- (3) comparative performance information for unbundled network elements;
- (4) service order accuracy and percent flow through;
- (5) held orders and provisioning accuracy;
- (6) bill quality and accuracy; and
- (7) repeat trouble reports for unbundled network elements.

In addition, BellSouth should provide performance measurements that are clearly defined, permit comparison with BellSouth's retail operations, and are sufficiently disaggregated to permit meaningful comparisons.

Regarding other concerns (i.e. transport trunks and advanced data services) expressed by some of the intervenors on the proposed LCUG, staff recommends that BellSouth and the intervenors resolve these pending issues as they are deemed necessary and adequate in demonstrating nondiscrimination.

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ISSUE 15: Has BellSouth provided telecommunications services available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3) of the Telecommunications Act of 1996, pursuant to section 271(c)(2)(B)(xiv) and applicable rules promulgated by the FCC? (Musselwhite)

RECOMMENDATION: No. BellSouth has not provided tele-communications services available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3) of the Telecommunications Act of 1996, pursuant to section 271(c)(2)(B)(xiv) and applicable rules promulgated by the FCC. BellSouth has failed to demonstrate that access to operational support system functions that it provides to competing carriers is equivalent to the access it provides to itself.

POSITION OF THE PARTIES

ACSI: Yes. BellSouth has provided service for resale but there are no performance standards or measurements. Further, ACSI has not had access to adequate OSS to handle resale orders resulting in delays.

AT&T: BellSouth has not provided such services to AT&T and proposes ordering mechanisms which are discriminatory in nature.

BST: Yes. ALECs are able to resell BellSouth's telecommunications services. BellSouth has developed technical service descriptions in ordering, provisioning, and maintenance procedures for 50 of its top retail telecommunications services. As of May 15, 1997, over 49,000 of these services were being resold by ALECs in Florida.

FCCA: No. ALECs have demonstrated that the operational support systems necessary to support resale are insufficient to provide parity or nondiscriminatory access.

FCTA: No position.

ICI: No. Although BellSouth has made its retail services available to Intermedia for resale, Intermedia does not enjoy non-discriminatory access to such services nor to the OSS functions that support them.

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MCI: No. BellSouth's operations support systems do not provide competing carriers with nondiscriminatory access to the preordering, ordering, provisioning, maintenance and repair, and billing functionalities for resold services. Such systems are not equal in quality to BellSouth's own systems. In addition, BellSouth has refused to provide voice mail service for resale on an unbranded basis, despite the fact that such resale is required by the MCI/BellSouth Interconnection Agreement. Further, BellSouth's proposed SGAT would impose restrictions on resale which are not in compliance with the Act.

MFS/WorldCom: No. BellSouth has not provided services for resale in accordance with the Act.

Sprint: No. While BellSouth may offer services for resale, the terms and conditions do not meet the requirements of this checklist item. The only restriction should be that residential services cannot be resold to business. Unbundled network elements are not retail services. Avoided costs should be calculated by cost category. Prices for associated network elements should not provide additional contribution. Prices need to be rebalanced.

TCG: TCG takes no position on this issue. However, BellSouth has the burden to affirmatively demonstrate that it has provided telecommunications services available for resale in accordance with the requirements of Sections 251(c)(4) and 252(d)(3) of the Telecommunications Act of 1996, pursuant to Section 271(c)(2)(B)(xiv) and applicable rules promulgated by the FCC.

STAFF ANALYSIS: This issue addresses whether or not BST has provided nondiscriminatory access to resold services in accordance with the Act, FCC rules and orders, and FPSC orders. In addition, this issue addresses nondiscriminatory access to Operations Support System (OSS) functions. Access to OSS functions is integral to the actual provision of resold services. This issue corresponds with checklist item number xiv of the Act.

INTERPRETATION OF THE ACT'S REQUIREMENTS

In this section of the analysis, staff provides the requirements per the Act, and the FCC's interpretation of those requirements from the FCC's First Report and Order (96-325) and the FCC's Ameritech Order (97-298). Staff will conclude the analysis

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of this section by summarizing the requirements being used for this issue.

SECTION 271 REQUIREMENTS

Section 271 (c)(2)(B) states that access or interconnection provided or generally offered by a Bell operating company to other telecommunications carriers must meet certain requirements. Checklist item fourteen is referenced in the Act as Section 271(c)(2)(B)(xiv). This section states that a Bell operating company meets the requirements of this subparagraph if such access and interconnection satisfies the following:

Telecommunications services are available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3).

Section 251(c)(4) imposes a duty on incumbent LECs to offer certain services for resale at wholesale rates. Specifically, section 251(c)(4) requires an incumbent LEC:

(A) to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers; and

(B) not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of such telecommunications service, except that a State commission may, consistent with regulations prescribed by the Commission under this section, prohibit a reseller that obtains at wholesale rates a telecommunications service that is available at retail only to a category of subscribers from offering such service to a different category of subscribers.

Section 252(d)(3) sets forth the pricing standard for wholesale rates. Specifically, section 252(d)(3) states:

For the purposes of section 251(c)(4), a State commission shall determine wholesale rates on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and

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other costs that will be avoided by the local exchange carrier.

FCC'S INTERPRETATION OF SECTION 271 REQUIREMENTS

Interconnection Order - FCC 96-325

The FCC's First Report and Order (EXH 1, FCC 96-325) in CC Docket No. 96-98, established certain rules and requirements for resold services that the incumbent local exchange company (LEC) must meet.

FCC Rule - 47 C.F.R. §51.613 states the types of restrictions that may be imposed on resale. This rule states that a state commission may permit an ILEC to prohibit a requesting ALEC that resells telecommunications services that the ILEC makes available only to residential customers or to a limited class of residential customers, from offering such services to classes of customers that are not eligible to subscribe to such services from the ILEC. In addition, the rule states that short-term promotions, those in effect for no more than 90 days, are not subject to the wholesale discount, but promotions in effect for more than 90 days and discounted offerings should not be excluded from resale. The FCC's rule further provides that ILECs cannot use the short term promotional offerings to evade the wholesale rate obligation. Finally, this rule requires ILECs to comply with reseller unbranding or rebranding requests where operator, call completion, or directory assistance service is part of the service or service package an ILEC offers for resale.

FCC Rule - 47 C.F.R. §51.615 states that when an ILEC makes a telecommunications service available only to a limited group of customers that have purchased such a service in the past, the ILEC must also make such a service available at wholesale rates to ALECs to offer on a resale basis to the same limited group of customers that have purchased such a service in the past.

FCC Rule - 47 C.F.R. §51.617 requires the ILEC to assess the end user common line charge to end users, and the charge for changing the designated primary interexchange carrier, upon requesting carriers that purchase telephone exchange service for resale.

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In addition to the rules above, the FCC determined that resale restrictions and conditions, including conditions and limitations contained in the ILEC's underlying tariff, are unreasonable and therefore in violation of section 251(c)(4). FCC 96-325, ¶939

Ameritech Order - FCC 97-298

The FCC explains its review and subsequent denial of Ameritech's application for interLATA authority in FCC Order 97-298 (the Ameritech Order). The FCC determined in its order that Ameritech was not providing nondiscriminatory access to all of the operational support system functions, as required by the competitive checklist. The FCC's order makes clear that analogous services must be provided in a nondiscriminatory manner.

The FCC has determined that RBOCs must provide nondiscriminatory access to OSS functions. The FCC concluded that access to OSS functions falls within an RBOC's duty under section 251(c)(4) to provide resale services (¶130). The FCC states that because §§251(c)(3) and 251(c)(4) include OSS, an examination of an RBOC's OSS is necessary to evaluate compliance with the UNE and resale portions of the checklist (¶131)

The FCC states that the RBOC's duty to provide items under the checklist must include rates and terms that comply with the Act "or, where no competitor is actually using the item, to make the item available as both a legal and practical matter." The FCC determined that OSS functions are a "term or condition" of resale and concluded that OSS performance is integral to the determination of whether or not the RBOC is providing all of the items contained in the checklist. (¶132)

The FCC listed several components for the provision of access to OSS. These components include:

1. the interface, or gateway, which is used to interconnect the ALEC's own internal OSS to an RBOC's OSS.
2. a processing link, either electronic or manual, between the interface and the RBOC's internal OSS (which includes all necessary back office systems and personnel).
3. all internal OSS or Legacy systems that an RBOC uses in providing resale services to an ALEC. (¶134)

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According to the FCC, an RBOC must provide more than just an interface in order to comply with the nondiscriminatory access standard for OSS. The FCC states that in order for an RBOC to meet the nondiscriminatory access standard, no limits may be placed on the processing of information between the interface and the legacy systems, if such limits did not permit an ALEC to perform a function in substantially the same time and manner as the RBOC performs the function for itself. The FCC asserts that this standard requires it to review all of the processes implemented by the RBOC to provide access to the OSS functions. (§135)

The FCC and the Department of Justice (DOJ) are in agreement that the inquiry into the processes used by the RBOC would involve two parts. First, the FCC will determine if the RBOC has provided the systems and personnel that are sufficient to provide access to each of the required OSS functions. In addition, the FCC will look at whether or not the RBOC is providing the assistance and training that ALECs need to use the OSS functions. (§136) This assistance includes providing ALECs with the technical specifications of the interfaces and legacy systems, so that ALECs can modify or design their own internal OSS to communicate with the RBOC's systems. Also, the FCC states that the RBOC must demonstrate whether or not its OSS is capable of handling both current and projected demand. (§137)

Second, the FCC will determine the readiness of the OSS functions to be used by the ALECs. (§136) This, among other things, involves whether or not the RBOC's OSS is now able to handle current demand and will be able to accommodate demand in the foreseeable future. The FCC and the DOJ agree on the standard for operational readiness, which is evidence of actual commercial usage. The FCC asserts that actual commercial usage is the most probative evidence of operational readiness. In addition, the FCC does not require an RBOC to ensure that ALECs are using all OSS functions available to them, however, the RBOC is charged with demonstrating that the reason an ALEC is not using a particular OSS function is strictly a business decision of the ALEC, rather than a lack of OSS function availability. The FCC states that it may consider other forms of evidence for commercial readiness if the RBOC can demonstrate why ALECs are not using all available OSS functions. The other forms of evidence that the FCC will consider, absent actual commercial usage are: carrier-to-carrier testing, independent third-party testing, and internal testing. (§138)

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The FCC also determined that OSS functions provided to carriers that are analogous to the OSS functions that an RBOC provides to itself in connection with retail service offerings must be equal in terms of quality, accuracy, and timeliness. (§139) The FCC stated that OSS functions associated with pre-ordering, ordering, provisioning, maintenance and repair, and billing all have retail analogues for resale services, and thus equivalent access is the standard required by the Act for all of these functions. (§140)

The FCC concluded in the Ameritech order, that its requirements on RBOCs to demonstrate nondiscriminatory access is "achievable." The FCC stated: "We require, simply, that the BOC provide the same access to competing carriers that it provides to itself." (§143)

FPSC'S INTERPRETATION OF SECTION 271 REQUIREMENTS

Staff believes that BellSouth has the duty to prove that it can provide to requesting carriers resold services that are analogous to the retail services that it provides to its own retail subscribers. In addition, BellSouth must prove that the resold services are being provided under reasonable and nondiscriminatory conditions, which includes equivalent access to OSS functions, and at the appropriate wholesale discount rates.

By Order No. PSC-96-1579-FOF-TP, in Docket No. 960833-TP, issued December 31, 1996, the FPSC set wholesale rates that comply with the intent of the Telecommunications Act of 1996. As directed by section 251(d)(3), the wholesale rates set by the Commission exclude the portions of retail costs that BellSouth can reasonably avoid in the provision of wholesale service. The residential discount was set at 21.83% and the business discount at 16.81%. (Id., p.56)

In Order No. PSC-96-1579-FOF-TP, the FPSC further agreed with the FCC that restrictions may be imposed on cross-class selling and short term promotions. 47 C.F.R. §51.613 The FPSC determined that no restrictions on the resale of services shall be allowed, except for restrictions applicable to the resale of grandfathered services, residential services, and Lifeline/LinkUp services to end users who are eligible to purchase such service directly from BellSouth. (Id., p.60) The FCC Interconnection Order is also clear, and this Commission agreed, that promotional or discounted

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offerings should not be excluded from resale; however, short term promotions, those in effect for no more than 90 days, are not subject to the wholesale discount. (Id., p.42; FCC 96-325, ¶948)

SUMMARY OF REQUIREMENTS BEING USED FOR THIS ISSUE

Staff generally agrees with the FCC's interpretation of the resale requirements of Section 271. Our determination of BellSouth's compliance with checklist item xiv is based on the 1996 Telecommunications Act, the FCC's Rules and Orders, and the applicable FPSC Orders.

Staff believes that BST has the duty to prove that it is not imposing unreasonable or discriminatory conditions or limitations on the resale of telecommunications service to requesting carriers. In addition, staff believes that BST has the duty to prove that it is providing nondiscriminatory access to its OSS to requesting carriers.

Staff believes that all rates must be based on the wholesale discounts set by the FPSC. Any rates not discounted the appropriate amounts are in violation of the FPSC's Orders, and therefore, not checklist compliant.

STAFF DISCUSSION OF POSITIONS

DESCRIPTION OF SERVICE

BellSouth is required to offer its retail services at wholesale rates to any competing telecommunications carrier that requests these services for resale. As discussed previously, the wholesale rates were determined by the FPSC, and were based on the retail rate minus the avoided costs. (Order No. PSC-96-1579-FOF-TP, p.56) In addition, the Act, FCC rules and orders, and FPSC orders require BellSouth to provide nondiscriminatory access to resold services, which includes nondiscriminatory access to operational support system functions.

The FCC has determined that operational support systems generally include those systems and databases required for pre-ordering, ordering, provisioning, maintenance and repair, and billing. Access to OSS functions are required for both UNEs and resale. In an effort to minimize duplication, the definitions of

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the OSS functions and the descriptions of the interfaces are provided in checklist item ii (Issue 3) only.

STATUS OF PROVISION OF SERVICE

BellSouth is making its retail services available for resale. BellSouth claims that as of May 15, 1997, over 49,000 business and residential services were being resold by ALECs in Florida. However, based on the evidence in this proceeding, staff is unable to confirm the actual number of services that BellSouth has resold in Florida. Nevertheless, it appears that the ALECs have not had problems with the resold services once they have received them, with the exception of a voice mail service problem that MCI has experienced; however, ALECs are experiencing many problems with the interfaces, operational support systems, and billing of the correct wholesale discount rates, contrary to the non-discriminatory requirements of the Act and the applicable FCC and FPSC Orders.

DISCUSSION OF PROBLEMS

The intervenors have raised many problems and concerns with the various interfaces and access to OSS functions for resale. In addition, several parties have cited problems with resale that are not OSS related. Therefore, the problems have been separated into two sections. The first section will discuss the OSS problems, and the second section will discuss any remaining resale problems that do not fit into one of the OSS categories.

I. OSS RELATED PROBLEMS

The parties problems concerning the various interfaces and the problems concerning access to OSS functions will be discussed within each of the five functions of OSS. Although the FCC defines pre-ordering and ordering as one function, there are different problems associated with each, as well as a series of problems that involve both functions together. The problems that are specific to the pre-ordering function will be addressed separately. Those problems that involve both pre-ordering and ordering functions will be addressed with the problems specific to the ordering function.

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1. PRE-ORDERING

Problem 1: LENS requires multiple address validations for the same fields in different screens.

The intervenors state that LENS requires the address to be validated three separate times. In the inquiry mode of LENS, the address must be validated to obtain telephone numbers, validated again to view available features and services, and, finally, again to view the installation calendar. BST's RNS system does not require multiple address validations while accessing pre-ordering information. (Calhoun TR 1287-88, 1300-01; Bradbury TR 2911-12) MCI witness Martinez states that the RNS system automatically assigns a number, once the address is validated. Witness Martinez explains that this number is "hard coded so that anything that they did from then on would bring for [SIC] the features and functions of that particular office." Because the number is "hard coded," RNS does not require multiple validations at each step, as does LENS. (Martinez TR 3342)

Problem 2: No on-line customer credit checking capability and limited availability of customer service record information.

ALECs do not have access to customer payment history information when using LENS in the pre-ordering mode. BST's RNS system allows BST representatives the option of accessing such credit information online through Equifax. (Calhoun TR 1440) BST witness Calhoun stated that she was unsure if BST's internal interface, DOE, had such credit checking capability. (TR 1440)

LENS in the inquiry mode does not provide customer credit history and detailed billing information other than the billing name and address. BST witness Calhoun stated that this information was not agreed to in negotiations with ALECs, and therefore, was not provided via LENS. However, this Commission did require BST to provide such information to AT&T and MCI in the arbitration proceeding. (Calhoun TR 1271-72) BST witness Calhoun stated under cross examination that access to this information will be added to the LENS system on October 8th of this year. (TR 1272-73)

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Problem 3: LENS requires human intervention

BST has not demonstrated that LENS provides non-discriminatory access to pre-ordering functions as compared to those available with BST's own RNS and DOE systems.

Human intervention occurs because the pre-ordering capability of LENS is not integrated with the EDI ordering interface. This is evidenced by the need for an ALEC service representative who must manually record the pre-ordering information obtained in the LENS inquiry mode and then manually re-enter the information into the EDI order. BST suggests in the LENS User Guide that the service representative print out each LENS screen as a method of recording the pre-ordering information. BST's interfaces do not require this level of manual intervention. (Bradbury TR 2840) This problem, as it relates to integration of interfaces, is also discussed below in Problem 5, of the Ordering and Provisioning section.

BST witness Calhoun stated that it is not necessary for an ALEC service representative to manually re-enter data accessed from LENS into the ALEC's internal OSS. Witness Calhoun stated that there are several methods that obviate the need to re-enter data. First, an ALEC service representative can "cut and paste" information from LENS, to any other computer application that supports the "cut and paste" function. (TR 1052, 1125) The second option suggested by Witness Calhoun, is to use the Common Gateway Interface (CGI). Witness Calhoun explained that CGI is a specification that could negotiate the movement of data between LENS and an ALECs OSS. In addition, Witness Calhoun stated that CGI is available to any interested ALEC. (TR 1053)

AT&T witness Bradbury stated that the CGI is not available to any new entrant interested in pursuing this option, as stated by BST witness Calhoun. Witness Bradbury provided a chronology of events that took place when AT&T sought the information necessary to implement CGI as BST proposes. AT&T's inquiry revealed that CGI builds upon the LENS interface, and firm specifications cannot be provided until the LENS interface is finalized. According to a letter dated May 19, 1997 from a BST project manager, LENS will require multiple and frequent changes and will not be stable for six to nine months. (Bradbury TR 2841, 2890-93)

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Problem 4: BST can reserve more telephone numbers than ALECs

MCI witness Martinez states that LENS only allows ALECs the ability to reserve or assign six telephone numbers per order. (TR 3240) AT&T witness Bradbury agrees stating, in addition, that BST can reserve up to 25 numbers through its own OSS. (TR 2845) In total, an ALEC is permitted to reserve a total of 100 numbers, or five percent of the available numbers, per central office. (Bradbury TR 2844) AT&T witness Bradbury states that numbers which are available when using LENS in the firm order mode are not available when using LENS in the inquiry mode. The inquiry mode of LENS is used to access pre-ordering information, when placing the actual order through EDI, PC-EDI, or by fax. (TR 2844)

There are other problems associated with accessing telephone numbers. First, an ALEC must go to a separate telephone number assignment screen each time it accesses a telephone number for a new customer. In other words, when the address is validated in LENS, a phone number is not automatically assigned to the customer. BST's RNS system on the other hand, only requires the BST service representative to visit a separate screen if the customer rejects the phone number that is automatically assigned when the address is validated. (Calhoun TR 1276-1277; Martinez TR 3342) Second, LENS does not provide a list of available NXXs to serve a specific address. However, BST service representatives have access to these numbers when using either RNS or DOE. (Calhoun TR 1282-83, 1447-48; Bradbury TR 2910)

Problem 5: Cumbersome and inefficient method of locating long distance company selected by customer and product and service information

LENS provides a randomly organized list of long distance companies. The list is provided randomly so that long distance companies beginning with the letter "A" do not have an advantage over other companies. The problem here is that LENS does not provide a method of accessing a particular company name easily. The ALEC service representative must scroll through the extensive list of over 300 available carriers to find the name and carrier code of the long distance company. (Calhoun TR 1288-92; Bradbury TR 2846) BST's RNS and DOE systems permit the BST representative to access carrier information by typing the first few letters in the carrier's name. (Calhoun TR 1293) AT&T witness Bradbury states

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that this is clearly not at parity in terms of timeliness or quality (TR 2912) This same inefficient condition is true when an ALEC's representative is trying to locate a service using LENS. The ALEC's representative must scroll through the list of available services to see if the requested service is available in the end office that serves the customer. (Calhoun TR 1295-97) BST's RNS and DOE systems permit the BST representative to access product and service information by typing the first few letters of the service or feature's name. (Calhoun TR 1299)

Problem 6: LENS does not provide access to calculated due dates in the inquiry mode

ALEC service representatives do not have access to due dates in the same manner as BST's representatives, when the ALEC's representatives uses LENS in the inquiry mode to access pre-ordering information. LENS provides the ALEC representative with a table of dates which are not available, instead of the earliest available dates for a particular central office. (Bradbury TR 2848) In contrast, RNS provides a color coded calendar which shows the first available due date calculated by DSAP, and highlighted in green. All other dates, both available and unavailable, are distinguished by other colors. (Calhoun TR 1312-15)

Pre-Ordering Summary

As discussed above, the intervenors raised several problems with the LENS pre-ordering interface. The problems raised demonstrate that LENS simply does not provide access to pre-ordering information in essentially the same time and manner as does BST's RNS and DOE systems. First, LENS requires multiple validations of the address to access certain functions. BST's RNS and DOE systems do not require multiple validations. Therefore, the ALEC service representative will spend more time reviewing or accessing pre-ordering information than will a BST service representative.

LENS does not provide customer credit checking capability and limited customer service record information. On the other hand, BST's internal interface, RNS, provides on-line credit checking capability and access to the customer's full service record information.

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LENS is a human-to-machine interface. Therefore, after an ALEC service representative accesses pre-ordering information, the representative must either cut and paste the information, or print out each LENS screen and then retype the information into an EDI order. This is true also for putting information into the ALEC's internal OSS. RNS and DOE do not require any such manual handling of data, since both systems have ordering and pre-ordering functions that are integrated.

An ALEC cannot reserve the same number of phone numbers through LENS as can BST in RNS. In addition, RNS automatically assigns a phone number when an order is being taken for a new customer. LENS requires the ALEC service representative to access the number screen and select a number. LENS does not provide a list of available NXXs for a specific address, as does RNS and DOE.

When searching for the long distance carrier requested by the end user, the BST service representative can type the first few letters in the carrier name and both RNS and DOE will automatically bring up the carriers full name and identification code. This feature is also true when the BST service representative is searching for products and services. However, LENS does not offer such capability. In LENS, any searches performed by the service representative must be performed by scrolling page by page until the carrier name or service name is found. This clearly is not at parity with BST.

LENS does not provide access to calculated due dates. Instead, a table of dates appears showing all days that are unavailable for due dates. These unavailable dates include weekends, holidays, scheduled office down times, and days that are already filled with other service orders. However, the ALEC representative has to look at a calendar to figure out what the next available due date actually is. In contrast, RNS offers a BST representative a calendar that highlights, in a specific color, what the earliest due date available is. In addition, the calendar shows the dates that are not available in another color. In other words, the BST ordering interface has a color coded calendar that is user friendly and is efficient. BST has not offered an efficient due date recognition system for LENS users.

Staff believes that BST is not providing pre-ordering capabilities at parity with what it provides itself. In addition,

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the FCC has concluded that "in order to meet the nondiscriminatory standard of OSS, an incumbent LEC must provide competing carriers access to OSS functions for pre-ordering...that is equivalent to what it provides itself, its customers or other carriers." (EXH 1, FCC 97-298, ¶130) As explained below in the ordering and provisioning summary, staff believes that BellSouth must provide a pre-ordering interface that is integrated with the EDI ordering interface, and that it must correct the LENS pre-ordering deficiencies discussed above.

2. ORDERING and PROVISIONING

Problem 1: LENS and EDI do not have electronic edit capability at parity with BST's RNS and DOE systems.

BST witness Calhoun admitted that RNS and DOE have greater edit checking capabilities than are provided to either EDI or LENS. (Calhoun TR 1267) This means there is a greater likelihood that an ALEC order will be rejected by the downstream systems than will a BST order. (Bradbury TR 2911) Witness Calhoun testified that RNS, DOE and EDI distinguish the fields that must be populated, so the customer service representative knows that the order is complete. (TR 1442-1443, 1445) Although EDI does distinguish the fields that must be populated, staff would note that witness Calhoun testified that LENS does not distinguish which fields must be populated. (TR 1445) In addition, witness Bradbury testified that the FUEL and SOLAR databases work simultaneously with RNS, while a BST customer service representative is working on an order. Therefore, FUEL and SOLAR are checking the order as it is being processed. This online edit checking capability does not exist with LENS or EDI, because LEO and LESOG are downstream databases that check the ALEC's order after it has been sent. (TR 3004-3005) Once the order is rejected downline, the ALEC is notified either by fax or through a phone call by the LCSC. (TR 2911) This notice could take days. (EXH 113, pp.46-47) However, errors in BST submitted orders, not caught by the on-line edit checks, but caught by the downstream checking database, are sent to an error handling group, typically within 30 minutes. (Calhoun TR 1440)

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Problem 2: No order summary screen exists in either EDI or LENS as in RNS.

When an ALEC representative completes taking the order from a customer, there is no order summary screen in LENS or EDI to confirm the order while the customer is on line, before sending the order off for completion. (Calhoun TR 1319-20; Bradbury TR 2910) BST witness Calhoun admitted under cross examination that RNS provides an order summary screen so that the order may be confirmed with the customer. (TR 1441)

Problem 3: Intervenors cannot access or make changes to pending orders.

Once an order is placed through LENS or EDI, the ALEC service representative cannot access the original order to make a change. (Calhoun TR 1320; Calhoun TR 1443) EDI allows a change order to be made and submitted to BST; however, the original order cannot be accessed in order to make modifications. (Calhoun TR 1443; Martinez TR 3347) In contrast, the original order placed by a BST representative using RNS and DOE, can be changed directly by accessing an order update screen. (Calhoun TR 1439)

Problem 4: BST has not provided requesting carriers with the technical specifications of the interfaces.

BellSouth stated that if an ALEC wants to integrate its pre-ordering information from LENS with its EDI ordering system, then the ALEC needs to use a Common Gateway Interface (CGI) program to build its side of the interface. (Calhoun TR 1336) Witness Calhoun testified that CGI is a program that manipulates data between two systems, thus eliminating the need for an ALEC customer service representative to move from one system to another. (TR 1335-1336) BellSouth began the development of CGI technical specifications for the ALECs, but abandoned the effort citing that it appeared no party wanted to pursue that option. (Calhoun TR 1335) However, AT&T and MCI state that they have both requested, and not received, the technical specifications from BellSouth. (Martinez TR 3236, 3305; Bradbury TR 2955-2957, 2964-2966) Further, witness Calhoun admitted that an ALEC cannot complete development of a commercial system that integrates LENS and EDI until BellSouth completes the CGI technical specifications on its side of the interface. (TR 1337) Witness Calhoun also stated that BellSouth is willing to

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continue to develop the CGI specifications with any interested ALEC. (TR 1126)

AT&T witness Bradbury stated that an ALEC will be at a disadvantage until BellSouth develops its side of the interface. (TR 2909) For example, witnesses Calhoun (BST) and Bradbury (AT&T) testified that RNS displays the rate for a service and calculates the taxes for that service. (Calhoun TR 1447; Bradbury TR 2931) Witness Calhoun stated that when a BellSouth customer service representative validates a customer's address, a tax code is returned that provides the appropriate taxes for that address. This information then flows through the order to the billing system. (TR 2931) Witness Calhoun also testified that in the products and services section of RNS, an option button appears beside each product or service which allows the BST customer service representative to offer promotions to BellSouth's end users. (TR 1440-1441) However, witness Calhoun stated that pricing, promotion, and packaging of services that an ALEC offers to its customers is at the ALEC's discretion. She stated that an ALEC can choose, "to organize information on its side of the interface in whatever way suits its pricing or marketing objectives." (TR 1447)

The parties also state that BellSouth has not notified them or provided them with the modifications BST makes to LENS. The parties state that this is essential, because LENS is a proprietary system that BellSouth owns and controls. (Martinez TR 3233; Bradbury TR 2825-2826) Witness Bradbury stated that changes to LENS are made unilaterally by BellSouth, which can make this interface unstable, disruptive, inefficient and expensive for new entrants to use. (TR 2825) In addition, witness Martinez testified that since March, BellSouth has made three revisions to the LENS Users Guide, none of which were disclosed to MCI. Witness Martinez further stated that in all cases, MCI learned of these revisions from a source other than BellSouth. (TR 3237) In addition, witness Calhoun testified that the latest version of the LENS User Guide was dated June 17, 1997. However, she agreed that some changes to LENS had taken place since it was published, and the next update to LENS was scheduled for October 8, 1997. (TR 1333) She further testified that no specific method was used other than through LENS itself to communicate the subsequent LENS modifications to ALECs since June 17th. (TR 1334)

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Problem 5: Interfaces are not fully electronic or integrated

There are three forms of manual intervention that are raised by the intervenors. The first form occurs because BST's proposed interfaces do not link an ALEC's OSS with BST's OSS. The second occurs because BST has not provided an interface that integrates pre-ordering and ordering capabilities together, as does its own internal interfaces. The third occurs on behalf of BST. LENS and EDI do not enable an ALEC to place orders for the same services as BST, which flow through BST's downstream systems untouched by human hands.

AT&T witness Bradbury states that LENS is a human-to-machine interface, since there is no electronic communication between BST's OSS and the ALEC's OSS. This is evidenced by the need for an ALEC service representative who must manually enter data into BST's OSS, and then manually re-enter the same data into the ALEC's OSS. (Bradbury TR 2822-24) BST believes that it is up to the ALEC to develop the integration capability for the interfaces. However, as discussed above in problem 4, BST has not provided the technical specifications necessary for an ALEC to design such capability.

AT&T witness Bradbury stated that since the pre-ordering capability of LENS is not integrated with the ordering capability of EDI, the pre-ordering information must be manually entered into the EDI based order. (TR 2863, 2918) This is in direct contrast to BST's RNS and DOE systems which automatically populate pre-ordering information into the order. (Bradbury TR 2863; Calhoun TR 1420, 1439, 1443) Witness Bradbury stated that the capabilities inherent in BST's RNS and DOE systems are not provided at parity for ALECs. (TR 2915-2916)

Another form of manual intervention is performed on behalf of BST's Local Carrier Service Center (LCSC). The EDI and LENS ordering interfaces do not allow all orders to flow through BST's downstream systems to generate a mechanized order. (Calhoun TR 1232-1234) BST's witness Calhoun stated that mechanized orders for PBX trunks, multi-line hunt groups, Synchronet services, and basic rate ISDN service cannot be generated at this time, when placed via EDI. Instead, orders for these services drop out of the system and go to the LCSC, where the order will be processed manually. (Calhoun TR 1237, 1316) The problem here, is that BST's internal ordering systems, RNS and DOE, allow orders for these services to